S.B. Civil Writ Petition No.4648/2002
Ashok Kumar Vs. The State of Raj. & Anr.

20.02.2007

Hon'ble Mr. Justice Mohammad Rafiq

Shri Sandeep Pathak for petitioner.
Shri B.S. Chhaba, Dy. GA

This writ petition has been filed challenging the demand notice dated 27.2.2001 whereby the District Transport Officer, Kota has required the petitioner to make payment of the tax in the sum of Rs.63,085/-. Shri Sandeep Pathak, the learned counsel for the petitioner has submitted that the vehicle of the petitioner is in the category of private vehicle whereas the tax has been levied treating it to be a commercial vehicle.

On the other hand, Shri B.S. Chhaba, the learned Dy. Government Advocate submits that although the vehicle of the petitioner is registered in private

category but its sitting capacity is 15 and therefore it has to be considered as a mini bus. Inspite of its registration for private purposes, such vehicles are generally used as transport vehicle. He further submits that in any case, if the petitioner has any doubt about the correctness of the assessment order / demand notice he should first approach the same authority again by filing a rectification under the provisions of Rule 38 of the Rajasthan Motor Vehicles Taxation Rules, 1951.

Heard learned counsel for the parties.

Rule 38(supra) clearly provides that the Taxation Officer may amend any order passed by it with a view to rectify any mistake apparent on the face of the record. If what the petitioner is pleading

is correct, there is no reason why he should not approach the same authority which has passed the main order.

The present writ petition is accordingly disposed of with a direction to the petitioner to submit a rectification application to the District Transport Officer, Kota within one month who is directed to decide the same within two months thereafter. Till passing the final order, the recovery of the tax shall remain stayed. However, the same shall abide by the final order passed in the rectification application.

(Mohammad Rafiq),J.

Rs/-